



Atty. Dkt. No. 077281-0104

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hortense W. DODO et al.

Title: DOWN-REGULATION AND SILENCING OF ALLERGEN
GENES IN TRANSGENIC PEANUT PLANTS

Appl. No.: 09/715,036

Filing Date: November 20, 2000

Examiner: Terra C. GIBBS

Art Unit: 1635

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.705, Applicants respectfully request reconsideration of the Patent Term Adjustment (PTA) to read fifty-two (52) days, as opposed to the zero (0) days of PTA as indicated in the Determination of Patent Term Adjustment forwarded with the Notice of Allowance dated June 2, 2004.

Attached please find a copy of the Determination of Patent Term Adjustment forwarded with the Notice of Allowance and the Notice of Allowability dated June 2, 2004, and a computer printout of the PTA History from the PAIR system.

Although the Determination of Patent Term Adjustment indicates that the PTA is zero (0) days, our investigation indicates that the proper PTA should be fifty-two (52) days. Accordingly, Applicants disagree with the Determination of Patent Term Adjustment, and present the following facts to support their contention that the patent term reward should be 52 days instead of 0 days.

08/31/2004 CNGUYEN1 00000002 09715036

02 FC:1455

200.00 0P

002.1255031.1

Bases for the Adjustment – Applicants believe that the calculation of Applicants’ Total Delay is incorrectly set forth as 232 days instead of 148 days as indicated by our Patent Term Adjustment Calculation System (a copy of which is attached).

Applicants received a Notice to File Missing Parts mailed January 19, 2001, and responded to this request on May 18, 2001 (a delay of 29 days). However, the PTO incorrectly set forth a 113 day delay since the PTO did not indicate that the application was complete until August 10, 2001 (a difference of 84 days). Accordingly, the Applicants believe that the PTO’s calculation of 113 days delay between October 12, 2001 and March 12, 2002 is in error, and request that the Applicants be granted an additional 52 days of patent term.

Statements Pursuant to 37 C.F.R. § 1.705(b)(2)(iii) and (iv) - This application is not subject to a terminal disclaimer, and there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

This request is being filed concurrently with payment of the issue fee, and attached with this request is a check for payment of the statutory fee of \$200.00 as set forth in 37 C.F.R. § 1.18(e).

Furthermore, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date August 30, 2004

By Richard C. Peet

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/715,036	11/20/2000	Hortense W. Dodo	077281-0104	6841	
22428	7590	06/02/2004	EXAMINER		
FOLEY AND LARDNER				GIBBS, TERRA C	
SUITE 500				ART UNIT	
3000 K STREET NW				PAPER NUMBER	
WASHINGTON, DC 20007				1635	
DATE MAILED: 06/02/2004					



Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

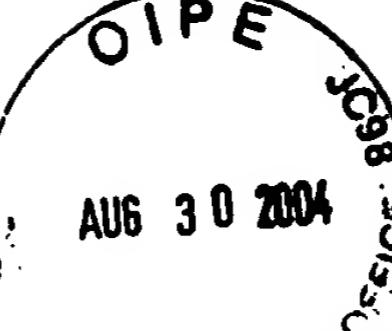
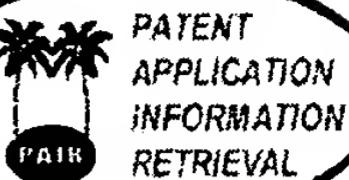
Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



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AUG 30 2004

**PATENT APPLICATION INFORMATION RETRIEVAL****Patent Term Adjustment (PTA) for publication number: 09/715,036**

		Days
Filing or 371(c) Date:	11-20-2000	USPTO Delay (PTO): 200
Issue Date of Patent:	-	Three Years: -
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL): 232
Post-Issue Petitions (days):	+0	Total PTA: 0
USPTO Adjustment (days):	+0	Explanation of Calculations

Search Options

Continuity Data
Image File Wrapper
File History
Publication Review

Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
06-02-2004	Mail Notice of Allowance		
05-28-2004	Issue Revision Completed		
05-28-2004	Notice of Allowance Data Verification Completed		
05-28-2004	Case Docketed to Examiner in GAU		
05-28-2004	Notice of Allowability		
03-22-2004	Date Forwarded to Examiner		
03-17-2004	Response after Non-Final Action		
02-20-2004	Mail Non-Final Rejection		
02-18-2004	Non-Final Rejection		
12-17-2003	Date Forwarded to Examiner		
12-04-2003	Request for Continued Examination (RCE)	(91)	
12-17-2003	Express Abandonment (for Entry of CPA / RCE / Rule129)	↑	
12-04-2003	Workflow - Request for RCE - Begin	↑	
10-15-2003	Mail Advisory Action (PTOL - 303)	↑	
10-14-2003	Advisory Action (PTOL-303)	↑	
10-06-2003	Date Forwarded to Examiner	↑	
09-25-2003	Amendment after Final Rejection	↑	
09-25-2003	Request for Extension of Time - Granted	↑	
06-04-2003	Mail Final Rejection (PTOL - 326)	↑	
05-31-2003	Final Rejection		
03-06-2003	Information Disclosure Statement (IDS) Filed	↑	
03-20-2003	Date Forwarded to Examiner	↑	

→ 41

03-06-2003	Response after Non-Final Action ✓	28
03-06-2003	Request for Extension of Time - Granted	↑
11-06-2002	Mail Non-Final Rejection ✓	↑
11-04-2002	Non-Final Rejection	
10-15-2002	Date Forwarded to Examiner	
10-08-2002	Response to Election / Restriction Filed	
10-08-2002	Request for Extension of Time - Granted	
08-08-2002	Mail Restriction Requirement	200
08-08-2002	X-Post-Legal Complete Rejection	↑
08-08-2002	Requirement for Restriction / Election	↑
05-22-2002	Case Docketed to Examiner in GAU	↑
02-20-2002	X-Pre-Legal Complete New Case	↑
12-10-2001	Case Docketed to Examiner in GAU	↑
12-06-2001	Case Docketed to Examiner in GAU	↑
10-26-2001	Information Disclosure Statement (IDS) Filed	↑
09-18-2001	Information Disclosure Statement (IDS) Filed	↑
05-18-2001	Preliminary Amendment	↑
11-06-2001	Case Docketed to Examiner in GAU	↑
08-21-2001	Application Dispatched from OIPE	↑
08-10-2001	Application Is Now Complete	↑ 113 ~ 5/18/01
08-06-2001	Correspondence Address Change	↑ ↑
06-21-2001	CRF Is Good Technically / Entered into Database	↑ ↑
01-19-2001	Notice Mailed—Application Incomplete—Filing Date Assigned	↑ ↑
01-19-2001	Correspondence Address Change	↑
12-12-2000	IFW Scan & PACR Auto Security Review	↑
11-20-2000	Initial Exam Team nn	↑

Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 077281-0104
 Application Number: 09/715036
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	11/20/2000✓	0		
Edit Delete	Notice to File Missing Parts	01/19/2001✓	60		
	Notice to File Missing Parts + 3 months	04/19/2001	150		
Edit Delete	Response to Notice to File Missing Parts	05/18/2001	179		29
	14 month From Application date	01/20/2002	426		
Edit Delete	Restriction Requirement	08/08/2002✓	626	200✓	
Edit Delete	Restriction Requirement Response Received at PTO	10/08/2002	687		
Edit Delete	PTO Action	11/06/2002✓	716		
	PTO Action + 3 months	02/06/2003✓	808		
Edit Delete	PTO Action Response Received at PTO	03/06/2003✓	836		28
Edit Delete	Final Office Action	06/04/2003✓	926		
	Final Office Action + 3 months	09/04/2003	1,018		
Edit Delete	Final Office Action Response Received at PTO	09/25/2003✓	1,039	= 91✓	
Edit Delete	Advisory Action	10/15/2003	1,059		
Edit Delete	Request For Continued Examination	12/04/2003✓	1,109		
Edit Delete	PTO Action	02/20/2004✓	1,187		
Edit Delete	PTO Action Response Received at PTO	03/17/2004✓	1,213		
Edit Delete	Notice of Allowance	06/02/2004✓	1,290		
	Projected Patent Grant Date	12/14/2004	1,485		
				Totals: 200	
				PTA:	
					98 + 50 = 148
					102
					52

Created and maintained by
FOLEY

LOGIN: Nicole Nowak IP: 10.31.8.94

Foley & Lardner LLP

PTO (113 + 28 + 91 = 232)
 Foley (29 + 28 + 91 = 148)